

Subject: MEC Newsletter - Fitness for Duty

Fitness for Duty

MEC Newsletter #16

March 14, 2012

[Version française à suivre]

Fellow Pilots:

ACPA has both a professional responsibility and a moral obligation to protect the safety of the flying public. In our view, the corporation's recent actions and the government's recently introduced legislation regarding continuation of service threaten flight safety. Clearly, at the current time, your Association is the only party that can be counted on as an advocate for the interests of the flying public in matters relating to flight safety.

An accumulating series of pressures have been increasing our stress levels over the last few months. Our inability to get the corporation to bargain meaningfully forced us to seek a strike mandate from you which you delivered with unprecedented resolve. Co-mediators were appointed to conduct a process which the minister indicated might take up to 180 days to complete. At the next scheduled bargaining session just last Thursday, the corporation dropped a massively concessionary proposal on the table and put a 24-hour gun to our heads. On Friday, we advised the corporation that the pilots would vote on the offer and the corporation responded immediately by putting us on notice that we were to be locked out. Last Sunday, we received two irresponsibly threatening communications from Air Canada's labour relations department. Now we are watching draconian legislation being pushed through Parliament. There is no doubt in our minds that our stress levels are at potentially dangerous levels.

The corporation's threats and the legislation tabled by the Minister of Labour appear to conflict with our responsibility not to fly if we are unfit for duty, as clearly stated in the Canadian Aviation Regulations (CARs) enacted under the Aeronautics Act. This exposes our membership not only to a huge potential liability but also to personal harm. The health and safety of the travelling public is, similarly, in jeopardy.

It has been established, scientifically, that stress symptoms (sleep deprivation, fixation, mental fatigue, malaise, inattention, etc.) have a huge impact on pilot

performance. The impairment in performance resulting from high levels of stress has been well documented.

As I stated in my letter sent Monday to Captain Legge, we need reassurances from the corporation and the government that failure to report for duty due to self-assessment that one is unfit for duty, in accordance with CARs, will not lead to any form of discipline or accusation of illegal job action. We also need reassurances that all of the other aspects of the safety policies in our collective agreement and Flight Operations Manual, as well as the procedures for the handling of incidents/accidents, remain intact. We need these reassurances because the threats delivered by the Corporation on Sunday have severely impacted our trust in the corporation's intentions going forward.

Please read the article below from an old CALPA Pilot Magazine dating back to 1988. It provides a compelling example of the potential liability a pilot may face because of attempting to work while being unfit for duty because of personal stress. Ultimately, he lost his job. Making your stress level known after an event has occurred will do no one any good - not you, your colleagues, or the people who entrust their lives to you every day. Similarly, it will not shield you from culpability.

We are also in possession of documented evidence that many of our pilots fear reprisal for booking off sick or for not reporting for duty when unfit. In one case the duty pilot, after having assessed a pilot as suffering from increased stress, failed to remove him from flying duty - a clear violation of the CARs.

In light of the stresses and pressures currently being placed on us and described above, it is important to remind you of your professional and legal responsibilities under Canadian Aviation Regulation 602.02 Fitness of Flight Crew Members:

No operator of an aircraft shall require any person to act as a flight crew member and no person shall act as a flight crew member, if either the person or the operator has any reason to believe, having regard to the circumstances of the particular flight to be undertaken, that the person

- (a) is suffering or is likely to suffer from fatigue; or
- (b) is otherwise unfit to perform properly the person's duties as a flight crew member.

Please review once again Flight Safety Division Newsletter # 5 dated March 8, 2012.

Regardless of any threats or letters coming from representatives of the corporation, the law stands and you have a professional and legal responsibility to refuse to act as a crew member if you have any reason to believe that you are suffering or likely to suffer from fatigue or are otherwise unfit to perform your duties properly.

There will be no just cause for discipline or reprisal against you in the event that

you govern yourself in accordance with this provision and your Association will defend you in the event that you are punished for doing so.

We have contacted representatives from the WestJet Pilot's Association, ALPA (C), Air Transat, Jazz and Canadian North to make them aware of our response to this attack on our regulatory responsibility to self-assess fitness. Responses are supportive. The Air Canada pilots will stand firm in the face of these threats and set an example for all commercial pilots in Canada.

Captain Jean-Marc Bélanger (MEC Chair)

AIR CANADA



BY E-MAIL (gtarves@acpa.ca)
& FACSIMILE (905-678-9016)

March 11, 2012

Captain Gary Tarves
MEC Chair
Air Canada Pilots Association
6299 Airport Road, Suite 205
Mississauga, Ontario
L4V 1N3

Captain Tarves,

Re: Illegal Work Action – Notice to Cease

Air Canada has reason to believe that ACPA's members are planning to engage in illegal job action in the form of, but not limited to increased sick calls, incidents of fatigue and inability to operate due to heightened stress levels to take place on Monday, March 12, 2012.

Air Canada is monitoring delay, attendance, scheduling and other information on an ongoing basis. As we expect you are aware, any type of concerted or common understanding activity, including work slowdowns, refusals to perform draft or extra flying, sick-outs or any other similar type of activity, amounts to an unlawful strike pursuant to the *Canada Labour Code* ("Code") and a breach of the collective agreement.

In the circumstances, ACPA has an obligation to ensure that its members comply with the *Code* and the collective agreement. Accordingly, Air Canada expects that ACPA will immediately take any and all measures reasonably available to advise its members that the type of activity described above or any other job action done in concert or in accordance with a common understanding that is designed to restrict or limit output will breach the *Code* and/or the collective agreement, and to remind them of their obligation to report for work and perform their duties in the normal fashion.

In the event ACPA fails or refuses to comply with the foregoing and/or its members engage in illegal job action, Air Canada reserves the right to seek the necessary relief without further notice or delay, including injunctive relief, and will hold ACPA and/or its members liable for any and all damages suffered. As well, be advised that any Air Canada pilot found to have engaged in illegal job action may be subject to disciplinary action up to and including discharge.

Harlan Clarke
Director, Labour Relations
Air Canada

cc: Mr. J. Lessard, Acting Director-General, FMCS
Mr. F. Headon, Sr. Counsel Labour & Employment, Air Canada
Captain. P. Strachan, President, ACPA

Subject: MEC Newsletter - Correspondence from Air Canada Labour Relations Department

Correspondence from Air Canada Labour Relations Department

MEC Newsletter #15

March 12, 2012

[Version française à suivre]

Ladies and Gentlemen,

Two letters were received from the Company by my predecessor, Captain Gary Tarves, on Sunday, March 11th, 2012.

The first letter is regarding "Illegal Work Action - Notice to Cease", and the second is regarding "ACPA Industrial Action Committee Newsletter #03 and Distribution of Pamphlets". Responses have been sent to Mr. Harlan Clarke and to Captain Dave Legge in this regard.

The text of both company letters and the responses are included below for your information.

Captain Jean-Marc Bélanger (MEC Chair)

March 12, 2012

Mr. Harlan Clarke
Director, Labour Relations
Air Canada
P.O. Box 14000, Station Airport
Dorval, Quebec H4Y 1H4

Mr. Clarke:

ACPA is in receipt of your two ultimatums delivered via letters sent, yesterday, to my predecessor, Captain Gary Tarves, and which were subsequently published on your employee website. It is unfortunate that my first correspondence as MEC Chair need be addressed to you, but you leave me with little choice.

It is difficult for me to understand how you might believe that the harassment and threats contained in your letters may have any impact on my fellow Air Canada pilots. The only reason I can fathom that might explain your attempt at intimidating us is that you, yourself, are not a pilot. Your letters belie complete ignorance of a pilot's responsibilities under the law.

Furthermore, only a non-pilot would be unaware that many of my colleagues had vast experience in dealing with difficult situations long before they joined Air Canada. Some of them have saved countless lives in medical evacuation operations, performed daring missions off-airport from pole to pole and have facilitated the mapping of the geophysical potential of the planet. Some of them have put their lives on the line for their country in the service of the Royal Canadian Air Force, participating in countless operations in support of Canadian foreign policy around the world and by dropping laser guided bombs while under enemy fire. They have been on the front lines of protecting the very sovereignty of our great nation. Many of them have lost comrades along the way - fellow pilots who have given their lives in the line of duty.

All of which is to say that we will not be intimidated by letters from your office. In fact, we demand that you cease and desist from any such correspondence in the future. Air Canada pilots have kept this airline flying throughout the most difficult decade of our proud history by consistently going above and beyond the call of duty - not because of your department but in spite of it. Your latest pieces of correspondence comprise a direct attack on flight safety in their disregard for the provisions of the Canadian Aviation Regulations and the Aeronautics Act.

Be advised that, from this point forward, this association will only entertain correspondence from Captain David Legge on any and all matters related to the current situation that has been forced on us.

This policy will continue until the Air Canada pilots achieve a collective agreement that

recognizes the critical contribution we make to this airline. You have not displayed even a modicum of respect for the 3000+ professional airline pilots who are responsible for the safe and efficient operations of this airline - the very asset turnover that drives enterprise value. The tone and the content of your letters speak volumes in respect of the attitude and consideration paid to their key employees by the executive management of this corporation.

Captain Jean-Marc Bélanger
MEC Chair

cc: Captain Dave Legge, Senior Vice President, Operations, Air Canada
ACPA Master Executive Council (MEC)

March 12, 2012

Captain Dave Legge
Senior Vice President, Operations
Air Canada
P.O. Box 6002, Zip 2480
Lester B. Pearson International Airport
Toronto AMF, ON L4P 1B4

Captain Legge:

This letter is written in response to the two letters my predecessor, Captain Gary Tarves, received yesterday from Mr. Harlan Clarke. The charges and threats contained in these letters are an absolute insult to our professionalism and are completely without merit.

As you know, the operational pressures of recent weeks have had nothing to do with any concerted effort to affect operations on the part of my fellow pilots. To insinuate that the corporation is being subjected to any kind of illegal job action can only be explained by this person's remoteness and inexperience with flight operations of any kind.

The fact is that this airline is short-staffed and can only operate at maximum capacity with a large percentage of the pilot group going above and beyond the call of duty. You will be well-aware of the increase in Air Safety Reports being filed in recent weeks and the increase in levels of distraction that have led to a disturbing increase in altitude violations. These are alarming. As the Chair of our Flight Safety Division wisely counseled our pilots last week, now is not the time for "press-on-itis". In fact, now is the time for the exercise of extreme care and caution! The Canadian Aviation Regulations are clear: unfit pilots - for whatever reason they may be unfit - have an obligation under the law NOT to operate. Mr. Clarke's letter has been forwarded to Transport Canada.

If the corporation wanted to keep this dispute out of the public domain, it would have realized and accepted long ago that Air Canada pilots would not compromise their wages, working conditions or safety standards. It would not have taken the laughable position that locking its pilots out was an acceptable outcome, absent the intervention of the federal government. That action was completely irresponsible - not only in respect of Air Canada's pilots, but in respect of its customers, the federal government, the Canadian public, and its own shareholders!

I will expand on our expectations in subsequent newsletters to our members. Our position will be crystal clear for all. Rest assured that we will not tolerate any attack on any one of our pilots. We will undertake any and all means necessary to defend them. You attack one of us you attack us all!

Air Canada pilots have provided billions of dollars in savings and liquidity to their airline over the course of the last decade - far more than any other group. And it was an

unprecedented decade, in many respects. We experienced the most egregious act of terrorism in human history. Shortly thereafter, we suffered the largest single health pandemic in this country since polio. In the face of massive concessions granted by employees which were touted as critical to the long-term survival of the airline, vulture capital pounced on the wounded and walked away with billions of dollars of wealth. This wealth took generations of Canadian toil to build. It not only left the corporation - it left the country, itself.

Just as we managed to get our heads above water - in spite of the asset strip that gutted this airline - we suffered the largest financial meltdown since the great depression. Mr. Milton took over \$80M on his own. Senior executive compensation has increased some 30% in the last year yet you offer your key employees less than cost-of-living improvements. What kind of leadership is this? Is it any wonder your employees have had enough? Suffice to say that executive compensation is and will remain a target.

I ask that you adopt a proper leadership role in stopping this madness. Mr. Clarke is simply making matters worse and I have indicated to him that, from this point forward, I will only entertain correspondence from you on any and all matters related to the current situation that has been forced on us.

I am sure you will agree with me that this great airline can thrive with a renewed management team focus. Similarly, you will know that it is bound to wither without this experienced, capable, and dedicated group of pilots pulling in the same direction with you. You have a privileged opportunity to materially affect the outcome of this dispute. I would suggest that a good start would be an apology to the pilot group from Mr. Clarke.

Dave, surely you will not participate in the gutting of what took more than sixty years of cooperative, collective bargaining to achieve. Your pilots deserve better - they've earned your respect. Our mutual success is forever interrelated. It is not too late for management to reverse course but time is running short.

Your failure to act now will surely lead to a train wreck later. With the notice of lockout, we have lost confidence in the direction of executive management. You need to reassure your pilots that they need not break the CARs by flying while unfit for duty. You also need to reassure me that all other provisions of our relationship which reside on mutual goodwill (such as the hold-harmless safety policy, the immunity provided by the ASR system and/or the handling of incidents and accidents) are still in force.

Captain Jean-Marc Bélanger
MEC Chair

cc: ACPA Master Executive Council (MEC)

Subject: MEC Newsletter - I am Booked Off... and more

MEC Newsletter #19

March 16, 2012

[Version française à suivre]

Highlights:

- I am Booked Off
- The Plan
- Harassment
- The Future

Fellow pilots,

I am booked off

This morning I advised Crew Scheduling to book me off flying duty because I have self-assessed as unfit to fly. My personal situation is unique in that my position in the Association comes with a full displacement and a DMM top up compensation scheme. This arrangement nevertheless calls on me to maintain my flying qualifications and to be available for flying, at my discretion, when called upon. This can happen when the coverage is short or nil. I would have loved to be able to lend a hand as we approach a busy weekend but will be unable to. I could have simply chosen to not fly without booking off but that would have been dishonest and inaccurate. I believe in leading by example and I will therefore take the same reduction in income that all of you are faced with when booked off. I had a discussion with my doctor last month and she reminded me of the symptoms that are indicative of a reduced spare mental capacity. Our in-house specialists tell me that, as in the case of people suffering post traumatic stress, a period of rest and calm may be enough.

The reasons for my being unfit to fly are based on my personal workload of these last few days - sleep deprivation and the unknown commitment of the corporation to support me in line with the many aspects of our joint obligations (i.e. flight safety and liabilities). There are countries we operate into that have detained pilots who had incidents or accidents with unfounded charges of criminal occupational negligence. If the same thing happened to one of us right now, it would take the full support of your Association, the Corporation and the Government to fight that battle successfully. Here in Canada, our obligations under CARS 602.02 are so

fundamental that threats of discipline in response to a so-called "sick-out" or illegal job action must be addressed. That opinion is shared by the representatives of the pilots at WestJet, Air Transat, Jazz, Canadian North, and others.

I am just providing you this information to help you in your decision-making process. I completely understand that you may be able to self-assess being fit for duty. I believe in your collective abilities and professionalism as mentioned in my letter to Mr. Clarke on Monday. Those were not empty words. The inability of the Association to protect you, or even defend you, should you choose to operate an aircraft while unfit to fly as proscribed by the CARS is also very real, as per my recent newsletter entitled "Fitness for duty" and reinforced by the FSD newsletter the same day.

The Plan

It may not be evident but we are fighting back on many fronts. Our legal team is working on challenging the legislation including the possibility of getting immediate injunctive relief.

We have received wide ranging support of our claim that this law is unconstitutional from political analysts, law professors and constitutional experts. A very prominent Montreal lawyer is so outraged by the Corporation and the Government actions that he has offered his services to us pro bono. We have made the case publicly and in front of the Senate that there appears to be collusion between the Corporation and the Government when the lockout notice was served.

Members of the Negotiating Committee (NC) met with the CIRB yesterday for that process which is still apparently going on. They will update you shortly.

The President has written to the Minister of Transport to follow up on our statement in the Senate that this new law is in conflict with some provisions of the CARS.

I have responded to claims that the LCC is off the table and that the Corporation will move without us. It is our clear intent that we will not allow this to happen. This airline would not survive such a unilateral move by its senior management.

Many of you are clamoring for radical action now. Your MEC is ready for all eventualities. Please give us a little breathing room.

Harassment

A popular theme these days. Some Permanent Managers felt that way after receiving my letter yesterday. We all felt like that when we received the letters from Mr. Clarke earlier this week.

Now there are allegations that some pilots are guilty of harassing other pilots. I find it hard to believe that some of us would be driven to act in the way described

in Captain Allen's latest bulletin. I take exception to the generalization of this incident. But let me be clear, ACPA does not condone this type of action. We must differentiate between personal attacks and issue oriented actions. I want you all to apply CRM principles in your discussions with fellow pilots. It is important that we all be engaged and informed of what is transpiring right now but please respect the rights of those fellow pilots who may disagree with the majority position. The Corporation and the Government are doing a fine job at mobilizing even the most moderate amongst us. In the case of unresolved differences, please disengage respectfully.

The Future

The MEC's actions and newsletters of this week may signal a hardening of our position. In discussions with middle management yesterday, I had to reinforce our anger and dismay at the Corporation's decision to lock us out. The claim that negotiations were not progressing fast enough is a poor excuse. Attempts to demonize anyone on our NC will be quelled immediately. The NC works for the MEC and the MEC works for you.

I still need reassurances from Captain Legge as per the last paragraph of my letter sent to him on Monday. I am writing to him again today. As soon as he responds, and I see no reason why his response would not be a positive one, I will let you know.

This airline can only exist with us pulling in the same direction. Lumping us in with the other employee groups is a tragic mistake, and not in line with what is done at other airlines in Canada and abroad. In fact, only successful airlines have a good rapport with their pilots; a relationship based on the unique and specialized contributions we make.

Right now the road for management to regain our trust starts with a response from Captain Legge. It is the MEC's view that the only way to find a way out of this mess is an agreement that is not forced upon us. That would precipitate a train wreck that could affect an entire generation of pilots. With our portion of the total costs at 4%, and the immediate response of the pilot group to a fair contract in terms of increased good will and productivity, the senior management decision to try to extract concessions from us is contrary to any good governance and is not in line with their responsibilities to the shareholders.

I leave you with the thought that we are only as strong as the Membership. Stay tuned and stay engaged.

SAFETY WITH INTEGRITY

Captain Jean-Marc Bélanger (MEC Chair)